



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
SOOWON KWON,)	
Complainant,)	
)	Charge No.: 2004CF0777
and)	EEOC No.: 21BA303382
)	ALS No.: 04-434
KOREAN AMERICAN COMMUNITY)	
SERVICES,)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On October 22, 2004, Complainant, Soowon Kwon, filed a complaint on his own behalf against Respondent, Korean American Community Services. That complaint alleged that Respondent discriminated against Complainant on the basis of his sex and citizenship status when it laid him off.

This matter now comes on to be heard on Respondent's Motion to Dismiss. Although Complainant was served with a copy of that motion, he filed no written response and did not appear at the scheduled hearing on the motion.

FINDINGS OF FACT

The following findings were drawn from the record file in this matter.

1. Complainant filed his complaint in this forum on October 22, 2004.
2. Complainant filed his charge of discrimination with the Illinois Department of Human Rights (IDHR) on or about September 22, 2003.
3. At the request of the IDHR, the parties agreed in writing to an extension of time to allow the Department additional time to investigate Complainant's charge.
4. The parties' agreed extension has not yet expired.

CONCLUSIONS OF LAW

1. Complainant's complaint was untimely filed. As a result, the Human Rights Commission has not yet acquired authority to act in this matter.
2. The instant complaint should be dismissed.
3. The charge underlying the instant complaint should not be dismissed, so Complainant can continue to pursue his claim against Respondents.

DISCUSSION

Under section 7A-102(G) of the Illinois Human Rights Act (775 ILCS 5/1-101 *et seq.*), a complainant can file a complaint on her own behalf between 365 and 395 days after the filing of a charge of discrimination, provided that the Illinois Department of Human Rights has not already filed such a complaint or ordered the charge dismissed. However, the cited section also allows the parties to agree in writing to allow the Illinois Department of Human Rights additional time to conduct its investigation of the charge.

In its motion, Respondent asserts that the parties agreed to such an extension of time. Although both were served with Respondent's motion, neither Complainant nor the IDHR appeared to contest that assertion.

Because the parties agreed to extend the time for the IDHR to investigate Complainant's charge, the 30-day "window" for complainant-filed complaints never opened. As a result, the complaint in this matter is untimely and must be dismissed.

The underlying charge, though, should not be dismissed. That charge is still pending before the IDHR, and the Department should be allowed to continue its investigation of Complainant's allegations.

RECOMMENDATION

Based upon the foregoing, it is recommended that the complaint in this matter be dismissed and that the proceedings in this forum be closed. Nonetheless, the underlying

charge of discrimination should not be dismissed so that the IDHR can continue its ongoing investigation.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: February 17, 2005